

claims.

First of all, it is respectfully submitted that functionality, not intended use, is claimed. Secondly, it is axiomatic under U.S. patent law that compositions may be claimed by function. It is clear that, under 35 U.S.C. §112, compositions can be claimed by either formulation or by function and that, when function is claimed, the functional limitations cannot be ignored.

I. 35 U.S.C. §112, First Paragraph, Rejection of Claims 1-4

As indicated above, the Examiner has rejected claims 1-4 under 35 U.S.C. 112, first paragraph.

First, it is respectfully submitted that the first paragraph of 35 U.S.C. §112 concerns the specification, not the claims.

Second, it is respectfully submitted that, because the Examiner has relied upon the first paragraph of 35 U.S.C. §112 to reject claims 1-4 in the March 1, 2000 Office Action, the Examiner's rejection is improper.

Third, claims 1-4 claim compositions with specific function, which are clearly enabled by the specification. The specification clearly recites numerous formulations which accomplish the claimed functions in claims 1-4. Claims 1-4 are therefore clearly enabled by the specification under 35 U.S.C. §112.

II. The 35 U.S.C. §102 (b) Rejection

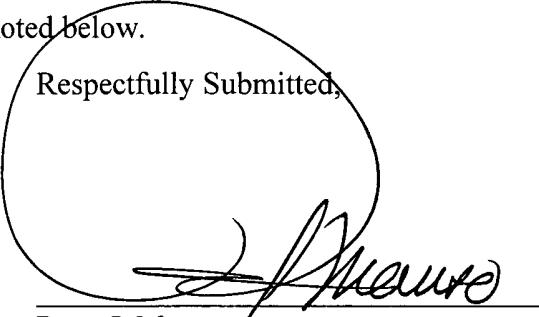
The claimed functionality in claims 1-4, not intended use, clearly distinguish claims 1-4 over the prior art. O'Neill, U.S. Patent No. 5,268,181, is dead silent as to such functions. In fact, O'Neill is dead silent as to glucose, uric acid, intermediate release and rates of absorption at different time intervals following ingestion and the functions claimed in claims 1-4. It is clear that the Examiner has improperly ignored the functional limitations positively recited in claims 1-4 to reject claims 1-4 under 35 U.S.C. §112 and §102(b). It is therefore respectfully submitted that when the claims are considered properly "as a whole", which includes the recited functionality, they are clearly distinguished over O'Neill, U.S. Patent No. 5,268,181, which cannot and does not anticipate claims 1-4.

As a result of the foregoing, it is respectfully submitted that the present application and

all pending claims, including claims 1-4, are in clear condition for allowance. Therefore, early passage of the above-reference application for U.S. patent to issuance is earnestly solicited.

Should the Examiner have any questions or require additional information or clarification, Applicant requests that the Examiner immediately contact the attorney of record herein, Peter J. Manso, at the phone numbers noted below.

Respectfully Submitted,


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